IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10067 OF 2004

Jyotirling Shikshan Prasarak Mandal & anr. .. .. Petitioners.
V/s
State of Maharashtra & ors. .. Respondents

Mr.F.A.Mulla for petitioners.
Mr.R.M.Patne, AGP for res.Nos.1, 2 & 3.
Mr.A.B.Borkar for res.No.4.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 9th August 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. This petition is filed to challenge the decision of the Government permitting the 1st petitioner-Institution to start the school on permanent non-grant basis. The grievance is that the 1st petitioner was ready to run the school on non-grant basis, but it should not be permanent non-grant basis. As far as the resultant problem is concerned, Mr.Patne, learned AGP, has fairly drawn our attention to an unreported judgment of a Division Bench in **Writ Petition No.138 of 2003 in the case of Shri Gajpal Udgave Trust & ors. vs. State of Maharashtra & ors.** In paragraph 5 of that judgment, Lodha, J. has observed for the

Division Bench that even if a permission is granted on permanent non-grant basis, that will always be subject to review of the situation by the State Government. Basically, the Government is granting such permission on non-grant basis or on permanent non-grant basis because of the financial difficulties. The judgment further records that in the event State Government's financial condition improves, the Government will take review of the situation and in which case on consideration of all facts in a given case grants could be made available.

3. In the circumstances, there is no reason for us to pass any separate order to interfere with the decision of the Government granting permission to start the school on permanent non-grant basis.

4. Mr.Patne, learned AGP, has, however, pointed out that as expected by the Education Officer (Secondary) of the Zilla Parishad, Kolhapur, the 1st petitioner-Institution is expected to give a guarantee / undertaking as mentioned in the letter dated 11th March 2004. Inasmuch as the guarantee is not given, there is no reason to entertain this petition any further.

The school run by respondent No.4 is operating in the same village and that is also on non-grant basis. It is a small village. In fact, there is no need to have another school in the village. Petition is dismissed.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)